

IN THE UNITED STATES DISTRICT
WESTERN DISTRICT OF ARKANSAS
EL DORADO DIVISION

KENNETH MODICA

PLAINTIFF

VS.

CASE NO. 05-CV-1087

PAPER ALLIED INDUSTRIAL, CHEMICAL
& ENERGY WORKERS INTERNATIONAL
UNION AFL-CIO, an international labor
organization and various JOHN DOES, agents,
employees, and/or officers of the Union

DEFENDANTS

ORDER

Before the Court is a Motion to Reconsider filed on behalf of the Plaintiff, Kenneth Modica. (Doc. No. 23). Plaintiff asks the Court to reconsider its Order and Judgment granting Defendant United Steel, Paper and Forestry, Rubber Manufacturing, Energy, Allied Industrial and Service Workers International Union's Motion to Dismiss and dismissing Plaintiff's Complaint. The Defendant has responded. (Doc. No. 27). The Plaintiff has filed a response to Defendant's reply. (Doc. No. 28). The matter is ripe for consideration.

The Court granted the Defendant's Motion to Dismiss on the grounds that Plaintiff's service of process under Ark. Code Ann. §§ 4-28-214(b)(1) and 4-33-504(b) did not constitute proper service upon the Defendant. The Plaintiff has filed this motion for reconsideration claiming that service under Arkansas law (i.e. Ark. Code Ann. § 4-33-504) was correct.

Under Rule 59(e), the Court may alter or amend its judgment only if it finds a manifest error of law or fact in its ruling. *See Hagerman v. Yukon Energy Corp.*, 839 F.2d 407, 414 (8th Cir. 1988)(quoting *Rothwell Cotton Co. v. Rosenthal & Co.*, 827 F.2d 246, 252 (7th Cir.), *as*

amended, 835 F.2d 710 (7th Cir. 1987), quoting in turn *Keene Corp. v. International Fidelity Insurance Co.*, 561 F.Supp. 656, 665-66 (N.D. Ill. 1982), *aff'd*, 736 F.2d 388(7th Cir. 1984)).

After reviewing the Plaintiff's motion, the Court does not believe that Plaintiff points to a manifest error of law or fact that would justify amending or altering its prior ruling. Therefore, Plaintiff's Motion to Reconsider should be and hereby is **denied**.

IT IS SO ORDERED, this 20th day of August, 2007.

/s/Harry F. Barnes
Hon. Harry F. Barnes
United States District Judge